

Summary  
Environmental Rules Board  
Indiana Government Center South  
Conference Center Room A  
Indianapolis, Indiana  
Wednesday, August 14, 2019

**A. Call to Order**

Vice Chair William Etzler called the meeting to order at 1:30 p.m. A quorum was present.

Members present: William Etzler, Dr. Joanne Alexandrovich, Ken Rulon, Cal Davidson, Chris Horn, Dr. Ted Niemiec, Jeffrey Cummins, Bruno Pigott, Chris Smith (for Cameron Clark), Mark Wasky, Angelique Collier, Paul Gilson, Michael Schuler.

**B. Approval of Meeting Summary of May 8, 2019**

Vice Chair Etzler called for approval of the May 8, 2019, meeting summary, which was approved. He introduced new member, Michael Schuler, representing Construction Services.

**C. IDEM Reports**

Commissioner's Report

Commissioner Pigott said IDEM's Office of Air Quality (OAQ) received an application in April for a permit from the Waelz Corporation. He said the company plans to locate at the old Borg Warner site in Muncie, Indiana, to extract zinc from electric arc furnace dust. Mr. Pigott said IDEM has received many concerns from the community, Ball State University, and I.U. Hospitals regarding emissions and other pollutants. He said IDEM was in the process of evaluating the application.

He said that IDEM is involved in improving its processes agency-wide. It involves updating software systems, and IDEM is trying to establish a citizen portal. He said one of the areas IDEM is looking at is the storm water program and the processes for reviewing notices of intent. IDEM is also looking at the underground storage tanks program and working with the Department of Natural Resources on similar situations.

Dr. Alexandrovich asked if IDEM had a suggestion/complaint box. The Commissioner replied that IDEM listens to staff and also invites people who interact with the agency to help with the review of processes. IDEM will consider a process for receiving public input.

Rules Update

Ms. Chris Pedersen, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings that could come before the next Environmental Rules Board meeting, possibly November 13, 2019, which will be held in Conference Center Room A. She introduced a new Rule Writer, Seth Engdahl.

Use Attainability Analysis (UAA) Presentation

Commissioner Pigott gave a presentation on the Use Attainability Analysis Process for

Combined Sewer Overflow Communities and described the process. There was much board discussion.

**D. Rules**

1. Clark and Floyd Counties 2015 Ozone Designation Emergency Rule

Vice Chair Etzler opened the discussion for adoption of the Clark and Floyd Counties 2015 Ozone Designation Emergency Rule. Ms. Krystal Hackney, Rule Writer, RDS, OLC, spoke for the agency and said this rule temporarily revises 326 IAC 1-4-11 and 326 IAC 1-4-23 to designate Clark County and Floyd County to nonattainment for the 2015 eight-hour ozone standard until the regular rulemaking is completed.

There were no questions and no board discussion. There were no commenters.

Dr. Niemiec moved to adopt the emergency rule and Dr. Alexandrovich seconded. The emergency rule was adopted unanimously.

2. Hazardous Waste Updates, LSA #18-481

Vice Chair Etzler opened the discussion for final adoption of the Hazardous Waste Updates rule. Dan Watts, Rule Writer, RDS, OLC, spoke for the agency and said this rulemaking updates the hazardous waste rules in Title 329 with the incorporation by reference of recently promulgated federal hazardous waste rules and also makes technical amendments and corrections to the rule language that are related to the updated requirements or identified in the included sections.

Mr. Gilson asked guidance on implementation of the generator improvement requirements. John Naddy, Senior Environmental Manager, Office of Land Quality (OLQ), Compliance and Response Branch, said IDEM does not currently have any guidance documents or non-rule policy documents developed. He said IDEM is working with constituents and working on a work group with U.S. EPA. He said it is something that has to be worked through, but currently it is something that is more stringent, and we are required to adopt the rule.

Mr. Gilson moved to adopt IDEM's suggested changes and Dr. Niemiec seconded. Dr. Niemiec moved to final adopt the rule as amended and Mr. Schuler seconded. By a roll call vote, the rule was final adopted unanimously.

3. NPDES General Permits, LSA #18-238

Vice Chair Etzler opened the discussion for preliminary adoption of amendments to 327 IAC 5 and 15 regarding NPDES General Permits. Ms. MaryAnn Stevens, Rule Writer, RDS, OLC, spoke for the agency and said the goal of the rulemaking is to change the process by which three categories of dischargers receive general permit coverage from the existing permit by rule process to the administratively issued general permit coverage that is issued by IDEM's commissioner. She said this is the second of likely three rulemakings to transition the existing rules for issuance of general permit coverage. There were no commenters. The hearing was concluded. Mr. Gilson moved to preliminarily adopt the rule and Dr. Niemiec seconded. With a voice, the rule was

preliminarily adopted.

#### 4. Septage Management, LSA #14-29

Vice Chair Etzler opened the discussion for preliminary adoption of amendments to rules at 327 IAC 7.1 regarding septage management. Ms. Krystal Hackney, Rule Writer, RDS, OLC, spoke for the agency. She said this rule amends 327 IAC 7.1 to address the changes made through the Indiana General Assembly regarding the change of terminology from “wastewater” to “septage” and removal of vehicle licensing requirements. The rule also addresses record keeping requirements for portable sanitary unit cleaning, adds flexibility to septage transportation requirements, allows for alternate design and construction of storage and treatment facilities, and adds phosphorus testing requirements.

There were no commenters and the hearing was concluded.

Dr. Alexandrovich asked about the term “wastewater” and about surface application vs. land application. Ms. Nancy King, General Counsel, OLC, said surface is a type of land application. Dr. Alexandrovich asked for clarification of dates on receipts for septage haulers. Brenda Stephanoff, Senior Environmental Manager, Office of Land Quality (OLQ), Permitting Branch, said the statute changed in 2016 and inspectors were having a problem with the date requirements. Mr. Rulon asked if the phosphorus testing was on the soil or septage contents. Ms. Stephanoff answered “soil”. Mr. Rulon asked for guidance and suggested there should be more phosphorus testing.

Mr. Gilson moved to preliminarily adopt the rule, and Mr. Rulon seconded. By a voice vote, the rule was preliminarily adopted.

#### **E. IC 13-14-9.5-1.1 2019 Hearing on Non-Expiring Rules**

LSA #19-245 and LSA #19-247

Vice Chair Etzler announced the hearing concerning the review of rules that do not expire under IC 13-14-9.5-1.1 and said every year IDEM is required to publish a list of rules that have been effective for seven years but are not subject to expiration because they are necessary for a federally delegated program or to receive or maintain federal funding. These notices were published for the air rules in Title 326 and the water rules in Title 327. No written comments were received.

Vice Chair Etzler said the board must determine whether to direct the agency to open a new rulemaking for any of the rules that are listed in the notices. If the board chooses not to ask for a rulemaking, a motion should be made for no further action to be taken on the rules. There was no board discussion.

There were no commenters. The hearing was concluded. Mr. Smith moved that no further action be taken on these rules and Mr. Horn seconded. By a voice vote, the board agreed that no further action needs to be taken on these rules.

#### **F. Air Permit Fee Presentation and Board Action**

Commissioner Pigott announced that IDEM is requesting approval for fee increases for the Title V fee program. He said that in 2019 the General Assembly passed House Enrolled Act (HEA) 1278 which provided the rules board with the authority to grant fee increases. He discussed the history and future planning. He said Ms. Kim Diller, IDEM's Chief Financial Officer, was available to answer any questions.

Matt Stuckey, Deputy Assistant Commissioner, Office of Air Quality (OAQ), presented the Air Permit Fee Information and Request for Fee Increases for Title V Permit Fees. Mr. Stuckey and Commissioner answered questions from the Board.

Mr. Timothy Rushenberg, Vice President, Indiana Energy Association, said they support HEA 1278 addressing the \$2,000,000 shortfall that IDEM projects beginning in the 2021 biennium, and in the board addressing in a rulemaking any future potential fee increases in the air program.

Ms. Malika Butler, Assistant Vice President, Indiana Manufacturers Association, said they are supportive of funding IDEM. She would like transparency in information regarding expenses from IDEM.

Mr. Gilson asked Ms. King if the information Ms. Butler was requesting was in the Crowe Chizek report. Ms. King replied that the report was done to look at agency processes for issuing permits and other actions. She could not say if the report specifically addressed Ms. Butler's concerns because she did not have the report on hand.

**G. Other Matters**

Open Forum

Mr. Joe Sutherland with Citizens Energy spoke regarding the Dig Indy Tunnel. He offered the Board members a tour of the tunnel in the near future.

**H. Adjournment**

The next meeting is tentatively scheduled for 1:30 p.m. on November 13, 2019, at the Indiana Government Center South Conference Room A. Vice Chair Etzler adjourned the meeting at 3:41 p.m.

  
CHAIRPERSON

The summary is derived from Rules Development Branch staff members' notes. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management and will be made available on the IDEM rules website. To view approved summaries, you may go online to <http://www.in.gov/idem/legal/2355.htm>.